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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,933	10/14/2005	Gustave Paul Corten	2001-1371	4760

466 7590 04/11/2007
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EXAMINER

LAZO, THOMAS E

ART UNIT	PAPER NUMBER
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3745

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/11/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/520,933

Applicant(s)

CORTEN ET AL.

Examiner

Thomas E. Lazo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 63-93 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 63-65, 67, 68, 72, 73, 77-80, 85, 86 and 90-93 is/are rejected.
- 7) ☒ Claim(s) 66, 68-71, 74-76, 81-84 and 87-89 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 February 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

Response to Amendment

Applicant's amendment filed 2/20/07 is acknowledged.

The applicant has overcome the objection to the drawings under 37 CFR 1.121(d) by submitting corrected drawings. The objection to the drawings under 37 CFR 1.121(d) is withdrawn.

The applicant has overcome the objection to the specification by amending the specification. The objection to the specification is withdrawn.

The applicant has overcome the objections to claims 37 and 61 by canceling the claims. The objections to claims 37 and 61 are withdrawn.

The applicant has overcome the rejections to claims 32-62 under 35 USC 112, second paragraph by canceling the claims. The rejections of claims 32-62 under 35 USC 112, second paragraph are withdrawn.

The applicant has overcome the rejection to claims 32, 33, 34, 36, 42, 43, 46-49, 54, 55, and 59-62 under 35 USC 102(b) by canceling the claims. The rejection of claims 32, 33, 34, 36, 42, 43, 46-49, 54, 55, and 59-62 under 35 USC 102(b) is withdrawn.

The applicant has overcome the rejection to claims 41 and 60 under 35 USC 103(a) by canceling the claims. The rejection of claims 41 and 60 under 35 USC 103(a) is withdrawn.

Response to Arguments

Applicant's arguments with respect to claims 63-93 have been considered but are moot in view of the new ground(s) of rejection.

DETAILED ACTION

Claim Objections

Claim 91 objected to because of the following informalities:

In claim 91, line 2, "the above claims" should be --claims 79-90--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 63, 64, 65, 67, 73, 77-80, 85, 86, 90, 92, and 93, are rejected under 35 U.S.C. 102(b) as being anticipated by Sforza (4,047,832). Sforza discloses a method for extracting energy from a flowing fluid using an assembly of energy extracting devices 140 positioned close to one another, a guiding device 130 of the assembly being set with respect to the fluid flow in such a way that additional flow results having forces with a component perpendicular to the undisturbed direction of flow are exerted, such that fluid with higher kinetic energy or with lower kinetic energy, compared with a situation in which the force component is lacking, is guided through an energy-extracting device 140 of the assembly, and a support construction 134 for the device, wherein the flow is effective for at least energy extracting devices 140a,b, the ratio between the generated force component perpendicular to and that

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parallel to the undisturbed direction of flow is more than 0.1, several guiding devices 130,131 cooperate in the generation of the same circulation, such that the strength or scale of circulation increases, the guiding device 130 is moved, the fluid guiding takes place on the upstream side of the assembly, a device 130 thereof has a guiding function for a downstream assembly 140, differences in density in the fluid are inherently applied by heating or by cooling (e.g. warm front or cold front) to generate the force, the guiding device 130 on average has an inclination of more than 5 degrees with respect to the device 140 for extracting energy from a fluid flow, active guiding devices 130,131 are installed outside the farm and essentially on the windward side with respect to the dominant wind direction, part of the support construction 134 of the guiding devices is provided with profiles by means of which a force perpendicular to the undisturbed fluid direction can be exerted in order to improve guiding, the assembly is controlled by means of software (Figure 10) that is self-learning, and the assembly is controlled by means of software (Figure 10) that also uses information on the stability of the atmosphere in order to set angles of tilt.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 72 and 91 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sforza.

Sforza discloses all of the claimed subject matter except for guiding being such that the slow

fluid is guided to the left in the northern hemisphere and to the right in the southern hemisphere and an offshore wind farm.

Official notice is taken that guiding flow to the left or right depending on which hemisphere the assembly is in and being offshore or on land are design location decisions that are matters of engineering expedience. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the assembly of Sforza to guide such that the slow fluid is guided to the left in the northern hemisphere and to the right in the southern hemisphere and to be an offshore wind farm as a matter of engineering expedience.

Allowable Subject Matter

Claims 66, 68-71, 74-76, 81-84, and 87-89 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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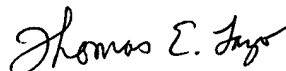
will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Thomas Lazo whose telephone number is (571) 272-4818. The examiner can normally be reached on Monday-Friday from 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Edward Look, can be reached on (571) 272-4820. The fax phone number for this Group is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thomas E. Lazo
Primary Examiner
Art Unit 3745
April 2, 2007